

**UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA**

In the Matter of:)	
)	
EZZELL TRUCKING, INC.)	Case No. 10-00492-8-JRL
)	Chapter 11
Debtor.)	

Objection to Confirmation

ASC Construction Equipment USA, Inc. (hereinafter known as “ASC”), holder of an unsecured claim against the above-named Debtor, hereby objects to the confirmation of the Debtor’s Plan of Reorganization dated April 22, 2010, (hereinafter known as the “Plan”), on the following grounds:

1. ASC is a member of the class of unsecured claims described as Class 42 in the Plan.
2. Section V, Paragraph L of the Plan seeks to prohibit any creditors, including ASC, which hold claims against guarantor(s) of Debtor from pursuing any action against guarantors of Debtor to collect on their claims.
3. ASC holds a claim against a guarantor of Debtor which, upon information and belief, has not sought bankruptcy protection under the United States Bankruptcy Code.
4. If debtor’s Plan is confirmed, ASC and all similarly situated creditors of guarantors will be inequitably prevented from seeking recovery from said guarantor(s), who have not sought individual bankruptcy protection.
5. That the guarantor(s) of Debtor are not afforded co-debtor protection under Chapter 11 of the United States Bankruptcy Code.
6. That the guarantor(s) of Debtor are not afforded co-debtor protection under Chapter 7 of the United States Bankruptcy Code, should this case convert from Chapter 11 to Chapter 7.
- 7.

7. That the Plan does not otherwise provide for ASC, or other similarly situated creditors, to realize actual recovery, or the equitable equivalent, of its claims against guarantor(s) who have not sought bankruptcy protection under the United States Bankruptcy Code.

WHEREFORE, ASC respectfully prays this Court for the following relief:

1. That ASC be heard on ASC's Objection to Confirmation of Debtor's Plan of Reorganization;
2. That co-debtors and/or guarantor(s) of Debtor are not protected from creditors by way of Debtor's Chapter 11 Bankruptcy Voluntary Petition and Plan of Reorganization;
3. That the Court find that ASC and other similarly situated creditors of guarantor(s) of Debtor be permitted to seek recovery from said guarantor(s); and
4. That the Plan be modified to adequately address ASC's concerns.

This the 4th day of June, 2010.

/s/ Cody R. Loughridge
Cody R. Loughridge, N.C. State Bar.: 35417
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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing **Objection to Confirmation** by placing a copy in the United States Post Office, postage prepaid, addressed to:

Trawick H. Stubbs, Jr.
Stubbs & Perdue, P.A.
P.O Drawer 1654
New Bern, NC 28563

Ezzell Trucking, Inc.
P.O. Box 67
Harrells, NC 28444

This the 4th day of June, 2010.

/s/ Cody R. Loughridge
Cody R. Loughridge, N.C. State Bar: 35417